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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/584,977	06/02/2000	Masanao Fujieda	04917.0075	3091
22852	7590	09/27/2005	EXAMINER	
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			PERUNGAVOOR, SATHYANARAYA V	
		ART UNIT	PAPER NUMBER	2625

DATE MAILED: 09/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/584,977	FUJIEDA, MASANAO	
	Examiner	Art Unit	
	Sath V. Perungavoor	2625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 08 June 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 19,27 and 30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 19,27 and 30 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
 Paper No(s)/Mail Date _____
- 4) Interview Summary (PTO-413)
 Paper No(s)/Mail Date. _____
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

DETAILED ACTION

Applicant(s) Response to Official Action

[1] The response filed on June 8, 2005 has been entered and made of record.

Response to Arguments/Amendments

[2] Applicant's arguments filed on June 8, 2005 have been fully considered, but are moot in view of the new ground(s) of rejection necessitated by the applicant's amendment.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

[3] Claims 19, 27 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hohla [US 5,891,132] in view of Flom et al. (hereinafter "Flom") [US 4,641,349] further in view of McMillen et al. [US 6,296,634].

Regarding claim 19, Hohla discloses the following claim limitations:

An ophthalmic system comprising an ophthalmic measurement apparatus and a refractive correction surgery apparatus [*T, and E, in Figure 1*], wherein the ophthalmic measurement apparatus comprises [*T, in Figure 1*]: optometry means for measuring a patient's eye to obtain measurement data on the eye necessary for refractive

correction [*Column 3 Lines 6-27*]; the refractive correction surgery apparatus comprises [*E, on Figure 1*]: surgery means for performing surgery for refractive correction on the eye by irradiating a cornea of the eye with a laser beam for ablation [*Column 5 Lines 25-33*]; surgery to be performed by the surgery means, based on the surgical data received from the ophthalmic measurement apparatus or permitting the surgical data to be generated based on the measurement data received from the ophthalmic measurement apparatus [*Column 5 Lines 35-42*];

Hohla does not explicitly disclose the following claim limitations:

first photographing means for photographing an anterior segment of the eye; first identification code acquiring means for extracting an iris pattern, which is inherently unique to the eye, by processing a first image of the eye anterior segment photographed by the first photographing means during the measurement of the eye, and obtaining a first identification code based on the extracted iris pattern; second photographing means for photographing the eye anterior segment; second identification code acquiring means for extracting the iris pattern by processing a second image of the eye anterior segment photographed by the second photographing means for positioning the eye before the irradiation of the laser beam and obtaining a second identification code based on the extracted iris pattern; comparison means for comparing the first identification code received from the ophthalmic measurement apparatus and the obtained second identification code to judge whether the first identification code and the second identification match; and

However, in the same field of endeavor Flom discloses the deficient claim limitations, as follows:

first photographing means for photographing an anterior segment of the eye [*Column 10 Lines 20-28*]; first identification code acquiring means for extracting an iris pattern, which is inherently unique to the eye, by processing a first image of the eye anterior segment photographed by the first photographing means during the measurement of the eye, and obtaining a first identification code based on the extracted iris pattern [*Column 4 Lines 39-45; Column 7 Lines 44-64*]; second photographing means for photographing the eye anterior segment [*Column 7 Lines 15-20*]; second identification code acquiring means for extracting the iris pattern by processing a second image of the eye anterior segment photographed by the second photographing means *for positioning the eye before the irradiation of the laser beam* and obtaining a second identification code based on the extracted iris pattern [*Column 7 Lines 44-57: Claimed “for positioning” is interpreted as intended use language.*]; comparison means for comparing the first identification code received from the ophthalmic measurement apparatus and the obtained second identification code to judge whether the first identification code and the second identification match [*Column 7 Lines 57-64*]; and Hohla and Flom are combinable because they are in the same field of ophthalmic measurement.

It would have been obvious to one with ordinary skill in the art at the time of invention to modify the teachings of Hohla with Flom to create:

storage means for storing the obtained measurement data or surgical data for the refractive correction generated based on the obtained measurement data in association with the obtained first identification code [*Hohla: Column 4 Lines 13-20; Flom: Column 12 Lines 7-10*], and output means for outputting the measurement data

or the surgical data along with the associated first identification code which are stored in the storage means [*Hohla: Column 4 Lines 13-20; Flom: Column 12 Lines 7-10: Storage devices are outputs, since data is outputted to disk which can be later removed.*], and The motivation being the ability to uniquely identify patients, Hohla disclose a system where patients examined with multiple topography systems arrive a centralized location for laser eye surgery [*Column 5 Lines 33-42*]. The identification of the patient is carried out through patient data [*Column 6 Lines 40-45*]. Hohla is silent about using iris pattern for patient identification. However, Flom discloses that iris patterns can be used to identify a person [*Column 11 Line 66-Column 12 Line 10*]. It is lucid from these teachings that one can substitute patient data with iris pattern for unique identification, since iris patterns are stable over time [*Flom: Column 4 Lines 39-45*].

The combination of Hohla and Flom does not explicitly disclose the following claim limitations:

permission means for permitting the surgery to be performed by the surgery means, when the comparison means judges that the first identification code and the second identification code match.

However, in the same field of endeavor McMillen discloses the deficient claim limitations, as follows:

permission means for permitting the surgery to be performed by the surgery means, when the comparison means judges that the first identification code (i.e. card) and the second identification code (i.e. data used by the computer for authentication) match [*Column 4 Line 54-Column 5 Line 11*].

Hohla, Flom and McMillen are combinable because they are in the same field of ophthalmic systems.

It would have been obvious to one with ordinary skill in the art at the time of invention to modify the teachings of Hohla and Flom with McMillen to perform system authentication with iris pattern comparison, instead of using patient data cards. The motivation being iris patterns are more stable over time [*Flom: Column 4 Lines 39-45*].

Regarding claims 27 and 30, all claimed limitations are set forth and rejected as per discussion for claim 19. Second storage means and output means are met by the storage elements disclosed by Hohla, Flom and McMillen.

Conclusion

[4] Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contact Information

[5] Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mr. Sath V. Perungavoor whose telephone number is (571) 272-7455. The examiner can normally be reached on Monday to Friday from 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Bhavesh M. Mehta whose telephone number is (571) 272-7453, can be reached on Monday to Friday from 9:00am to 5:00pm. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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